12-17 have been rejected under 35 U.S.C. §103(a) as being obvious over Watmough et al. in view of Chervitz. Claim 11 has been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Watmough et al. After a careful review of the claims, as amended, it has been concluded that the rejections are in error and the rejections, are therefore, traversed.

2. Claims 4, 5, 14 and 15 have been objected to because of certain informalities. In response, the informalities have been corrected.

3. Claims 1 and 4 have rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner asserts that "Claims 1 and 4 are rejected as being incomplete in the claiming apparatus for applying ultrasound in the preamble but no ultrasound system positively claimed".

As may be best understood from the Examiner's comments, the Examiner apparently believes that apparatus for applying ultrasound treatments must necessarily claim the structure which produces the ultrasound to be patentable. It is noted in this regard, however, that the two concepts are patentably distinct.

A claim for apparatus for producing ultrasound certainly would not require a claim element for applying the ultrasound. Similarly, a claim for apparatus for applying ultrasound does not require apparatus for producing the ultrasound.

Claims 1 and 4 are drawn to "Apparatus for applying ultrasound treatment", not apparatus for producing ultrasound. Since the apparatus would be understood to be different, there is no requirement that a claim drawn to one should include the other. Since the claimed apparatus provides an independent basis of patentability, the rejection is believed to be improper and should be withdrawn.

4. Claims 1-7 and 12-17 have been rejected for claiming the human body. In response, the claims have been amended as suggested by the Examiner.

5. Claims 1, 4 and 5 have been rejected as being anticipated by Chervitz. In particular, the Examiner asserts that "Chervitz discloses an adhesive visual indicator that changes color in response to temperature and is adapted to be disposed on the ~~boy~~ body portion, column 2, lines 4-17".

It is noted in this regard that the invention differs from that of the claimed invention in a number of regards. First, claim 1 is now limited to "means adapted to be disposed on the portion for providing a color change only at a predetermined temperature when a dosage limit of the ultrasound treatment has been reached". Support for the amendment may be found at page 4, lines 8-12.

In contrast, Chevitz describes a fever thermometer which provides color changes (temperature readings) at a number of temperatures. Further, since Chevitz is not drawn to ultrasonics or the application of ultrasonics, there is no predetermined temperature associated with Chevitz.

Similarly, claim 4 is limited to a "thermochromatic strip adapted to be disposed on the portion and adapted to reveal a dosage reached message at a predetermined temperature when a dosage limit of the ultrasound treatment has been reached". In contrast to a dosage reached message at a predetermined temperature, Chervitz merely displays a temperature.

Since Chervitz is not concerned with ultrasonic treatments or display of dosage messages at predetermined temperatures, Chervitz does not do exactly the same thing in exactly the same way. Since Chervitz does not do exactly the

same thing in exactly the same way, the rejection is believed to be improper and should be withdrawn.

6. Claims 8 and 10 have been rejected as being anticipated by Watmough et al. In particular, the Examiner asserts that "Watmough et al. disclose a method of applying ultrasound treatment wherein a temperature sensing visual indicator is in contact with treated tissue, column 3, lines 21-23 and 30-33".

It is noted in this regard that Watmough provides a "liquid crystal device to indicate the temperature of the skin by colour changes" (Watmough, col. 3, lines 30-33). In order to indicate a temperature of the skin by colour changes, the Watmough device would necessarily provide indication at each discrete temperature level indicated by the colour changes.

In contrast, the claimed invention is to a device which provides a visual change at only a predetermined temperature. Since Watmough refers to temperature related colour changes in general (and in a plural context), Watmough does not do exactly the same thing in exactly the same way. Since Watmough does not do exactly the same thing in exactly the same way, the rejection is improper and should be withdrawn.

7. Claims 2, 3, 6, 7, and 12-17 have been rejected as being obvious over Watmough et al. in view of Chervitz. However, as demonstrated above, neither Watmough or Chervitz (or the combination) teaches or suggests a device which provides a visual indication at only a predetermined temperature. As such, the combination fails to teach each and every claim limitation as required by MPEP §2143.03. Since the combination does not teach each and every claim limitation, the rejection fails to make the prima facie case of obviousness. Since the combination fails to make the prima facie case of obviousness, the rejection is improper and should be withdrawn.

8. Claim 11 has been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Watmough et al. However, as demonstrated above, Watmough et al. fails to teach or suggest a device which provides a visual indication at only a predetermined temperature. As such, the combination fails to anticipate or teach each and every claim limitation as required by MPEP §2143.03. Since the combination does not teach each and every claim limitation, the rejection fails to make the prima facie case of obviousness.

Since the combination fails to make the prima facie case of obviousness, the rejection is improper and should be withdrawn.

9. Allowance of claims 1-18, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, she is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,

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